

Child Labor (Nonagricultural Work)

Fair Labor Standards Act of 1938 (FLSA), as amended (29 USC §201 *et seq.*; 29 CFR Parts 570 to 580)

Who is Covered

The child labor provisions of the Fair Labor Standards Act (FLSA) are designed to protect the educational opportunities of youths and to prohibit their employment in jobs and under conditions detrimental to their health and well-being.

In nonagricultural work, the child labor provisions apply to enterprises with employees engaging in interstate commerce, producing goods for interstate commerce, or handling, selling or working on goods or materials that have been moved in or produced for interstate commerce. For most firms, an annual dollar volume of business test of not less than \$500,000 applies.

The Act covers the following employers regardless of their dollar volume of business: hospitals; institutions primarily engaged in the care of the sick, aged, mentally ill or disabled who reside on the premises; schools for children who are mentally or physically disabled or gifted; preschools, elementary and secondary schools and institutions of higher education; and federal, state and local government agencies.

Employees of firms that do not meet the \$500,000 annual dollar volume test may be covered in any workweek in which they are individually engaged in interstate commerce, the production of goods for interstate commerce, or an activity that is closely related and directly essential to the production of such goods.

An enterprise that was covered by the Act on March 31, 1990, and is no longer covered because of the increase in the annual dollar volume test to \$500,000 under the 1989 amendments to the Act, remains subject to the Act's child labor provisions.

While 16 is the minimum age for most nonfarm work, youths aged 14 and 15 may work outside of school hours in certain occupations under certain conditions. They may, at any age: deliver newspapers; perform in radio, television, movies, or theatrical productions; work for their parents in their solely owned nonfarm businesses (except in mining, manufacturing, or in any other occupation declared hazardous by the Secretary); or gather evergreens and make evergreen wreaths.

Basic Provisions/Requirements

The child labor provisions include restrictions on hours of work and occupations for youths under age 16. These provisions also set forth 17 hazardous occupations orders for jobs that the Secretary has declared too dangerous for those under age 18 to perform.

The Employment Law Guide is offered as a public resource. It does not create new legal obligations and it is not a substitute for the U.S. Code, Federal Register, and Code of Federal Regulations as the official sources of applicable law. Every effort has been made to ensure that the information provided is complete and accurate as of the time of publication, and this will continue. Later versions of this Guide will be offered at www.dol.gov/compliance or by calling our Toll-Free Help Line at 1-866-4-USA-DOL (1-866-487-2365).

The Act prohibits the interstate shipment of goods produced in violation of the child labor provisions. It is also a violation of the Act to fire or in any other manner discriminate against an employee for filing a complaint or for participating in a legal proceeding under the Act.

The permissible jobs and hours of work, by age, in nonfarm work are as follows:

- Youths age 18 or older are not subject to restrictions on jobs or hours;
- Youths age 16 and 17 may perform any job not declared hazardous by the Secretary, and are not subject to restrictions on hours;
- Youths age 14 and 15 may work outside school hours in various nonmanufacturing, nonmining, nonhazardous jobs under the following conditions: no more than three hours on a school day, 18 hours in a school week, eight hours on a non-school day, or 40 hours in a non-school week. In addition, they may not begin work before 7 a.m. or work after 7 p.m., except from June 1 through Labor Day, when evening hours are extended until 9 p.m. Those enrolled in an approved Work Experience and Career Exploration Program (WECEP) may work up to 23 hours in school weeks and three hours on school days (including during school hours).

Detailed information on the occupations determined to be hazardous by the Secretary is available from the Wage and Hour Division offices.

By regulation, employers must keep records of the dates of birth of employees under age 19, their daily starting and quitting times, their daily and weekly hours of work, and their occupations. Employers may protect themselves from unintentional violation of the child labor provisions by keeping on file an employment or age certificate for each young worker to show that the youth is the minimum age for the job. Certificates issued under most state laws are acceptable for this purpose.

Employee Rights


The FLSA prohibits employers from engaging in oppressive child labor, as defined by the Act. The FLSA also gives an employee the right to file a complaint with the Wage and Hour Division and testify or in other ways cooperate with an investigation or legal proceeding without being fired or discriminated against in any other manner.

Compliance Assistance Available

More detailed information, including copies of explanatory brochures and regulatory and interpretative materials, may be obtained from the Wage and Hour Division's Web site (www.wagehour.dol.gov) or by contacting the Wage and Hour Division's local offices (www.dol.gov/esa/contacts/whd/america2.htm). Another compliance assistance resource, the *eLaws* FLSA Child Labor Rules Advisor (www.dol.gov/elaws/esa/flsa/cl/default.htm), helps answer questions about workers and businesses that are subject to federal child labor rules. For additional compliance assistance, contact the Wage and Hour Division help line at 1-866-4USWAGE.

Penalties/Sanctions

Employers are subject to a civil money penalty of up to \$11,000 (\$10,000 for violations occurring prior to January 7, 2002) per worker for each violation of the child labor provisions. When a civil money penalty is assessed, employers have the right to file an exception to the determination within 15 days of receipt of the notice of such



penalty. When an exception is filed, it is referred to an Administrative Law Judge for a hearing and determination as to whether the penalty is appropriate. Either party may appeal the decision of the administrative law judge to the Secretary of Labor. If an exception is not timely filed, the penalty becomes final.

The Act also provides for a criminal fine of up to \$10,000 upon conviction for a willful violation. For a second conviction for a willful violation, the Act provides for a fine of not more than \$10,000 and imprisonment for up to six months, or both. The Secretary may also bring suit to obtain injunctions to restrain persons from violating the Act.

Relation to State, Local, and Other Federal Laws

Many states have child labor laws. When both this Act and a state law apply, the law setting the higher standards must be observed.